

Meeting Summary
Toxics Committee of the DNR Clean Air Act Task Force
June 14, 1999 – Madison, WI

Participants: Chris Koceja, Mann Bros./WTBA; Bob Heitzer, citizen; Dave Gardner, Briggs and Stratton; Craig Dousharm, Mercury Marine; Rolf Hanson, WI Petroleum Council; John Hausbeck, Madison Public Health; James Beasom, Appleton Papers; Jim Albrecht, STS Consultants; Ron Kilby, Payne and Dolan; Gail Jensen, Mathy Construction; Steven Skavronek, Susan Mudd, Citizens for a Better Environment; Liz Wessel, Environmental Policy Consultant; Keith Reopelle, WI Environmental Decade; Sara Humphrey, Universal Foods Corp; Sara Loftus, Chemical Manufacturers Association; Paul Strege, Johnson Polymer; Walter Blaedel, Prof. Chemistry Retired; Terry Coughlin, Wisconsin Electric; Dan Daggett, WI Dept of Health; Pat Stevens WI Manufacturers and Commerce; Thomas T. Stocksdale, S.C. Johnson & Son; Ed Wilusz, WI Paper Council; Tariq Akmut, Theresa Opie, Rockwell Automation/Allen Bradley; Jeff Loeffler, Brian Mitchell, WI Cast Metals Assn.; Rob Sherman, Kraft Food; Tom Ravn, Serigraph, Inc.; Caroline Garber, Jeff Myers, Andrew Stewart, David Oughton, Anne Urbanski, Bob Park, Wisconsin Department of Natural Resources.

Handouts: (titles, by whom): May 6, 1999 Meeting Summary, Anne Urbanski; Revised Agenda, Caroline Garber; Toxics Technical Advisory Workgroup presentation, Caroline Garber; NR 445 Decision Rules Memo, Jeff Myers; NR 438 Decision Rules Memo, Andrew Stewart; NR 438 Draft Changes, Andrew Stewart; Agenda 'Falsification' overheads, Walter Blaedel.

Meeting Notes

Introduction: Caroline Garber opened the meeting at 1:04 p.m. The purpose of the meeting is to discuss the revision of chapter NR 445, Wis. Admin. Code, the state's hazardous air pollutant rule. Caroline proposed a revised agenda including the discussion of establishing a technical advisory group as suggested at the last meeting. Walter Blaedel pointed out that the open meeting rules require at least two hours prior notice of a revised agenda. Caroline stated that this was the first time the agenda was presented and that it was not available for circulation until the time of the meeting.

Introductions were made around the room. During introductions, Blaedel pointed out that several 'falsifications' were made on the agenda. After introductions were completed Walter made a presentation with several overheads illustrating the following points related to his claims of falsifications:

- Requirements of meeting of record of a governmental body are sending out agenda, approval of agenda, presentation and approval of minutes from previous meeting. He claims second two requirements were not met.
- Walter claims agenda is incomplete and misleading in an attempt to mislead. Points out 8 'falsifications.'
- Walter alleges that DNR staff is responsible and should be held accountable with felony charges.

Proposal for establishing Toxics Technical Advisory Group (TAG):

- Caroline made the proposal to establish a Technical Advisory Group for the purpose of reviewing chapter NR 445 and revising it. The TAG would replace the Toxics Committee due to the limited staff at the DNR and the parallel nature of the two committees. The TAG would look at the issues overarching NR 445. Concerns specific to certain groups or

industries would be addressed in smaller group discussions among the interested parties before being brought before the entire committee. Presentations would be made to the Clean Air Act Task Force, the Small Business Council, and any other groups that would like a presentation on the new rule revisions.

- The **Draft Charge** of the TAG is to provide technical input and advice on revisions to NR 445 in the following areas: emissions estimates, monitoring and compliance, decision rules, end product, review and comment on the proposed rule. DNR is not looking for consensus on the proposed rule, but would hope to resolve most issues and incorporate TAG review and comments into the rule revision.
- **Expectations:** discussion will focus on the criteria and rationale for determining such issues as which chemicals should be listed, what the de minimis levels should be rather than on individual chemicals. The intent is to have clear and consistent criteria applied in the rule. There will be discussion on various issues on particular chemicals, particularly during discussions on implementation strategies.
- **Schedule:** meet at least once a month for six months (or more often depending on issues). Realistic target date of Jan. 2000 for Natural Resource Board authorization. First discuss criteria for including or excluding chemicals from being listed, then de minimis reporting levels, inventory reporting, and then implementation strategies, including permitting and compliance levels, schedules and timetables. DNR is anxious to revise format of rule to make it more user-friendly.
- **Membership:** like to solicit core group of participants from industry, environment, public health, state agencies, etc... Invitation to all persons on toxics committee mailing list to participate actively or be informed regularly of TAG activity.
- **Operating Procedures:** DNR proposed TAG function as follows: straw proposal out to group 1 week ahead (by email if possible), proposal discussed at meeting with opportunity for written comments, proposal revised based on discussion and comments, distribute to TAG members 1 week ahead, discuss at next meeting, repeat as necessary.
- **Discussion:** The following points, questions, and issues were raised:
 - Brian Mitchell commended DNR for amount of thought put into TAG idea. Pat Stevens said WMC supports such a formal process for NR445 rule revision.
 - Concern about issue of whether a specific chemical is listed, for example propane. Caroline and Andrew Stewart replied that makes more sense to look at why chemical is listed than to pick out specific chemical.
 - Jim Beasom raised question of difference between Toxics Committee and TAG for NR 445. Caroline responded that TAG would be a more formal structure with a specific purpose and open participation. DNR cannot staff both.
 - Ed Wilusz asked if outside expertise was welcome in the event of technical issues. Caroline responded that she sees that happening.
 - Is there a drop-dead date in mind? No, but need to let Natural Resources Board know ahead of time. Tentative date January, 2000.
 - Liz Wessel raised concern about ambient environment and apparent breakout of industry in rule. Caroline responded that cumulative look will be done by TAG and that specific industry issues will be folded into the larger group.
 - Steve Skavroneck – at least need to let everyone know about specific issues and meeting results possibly through email.

- Susan Mudd – will NR 445 revision look at community impacts? Caroline – no cumulative exposure analysis for NR445, EPA is doing that in a separate effort.
- Steve S. suggested Peter McAvoy at 16th Street Health Center in Milwaukee as a nominee to participate on the committee.
- Participation in the committee is encouraged and a sign-up sheet was passed around.
- Walter Blaedel wants to know if signing up entitles one to a place on the meeting agenda. Caroline responds that people can send her agenda items prior to the meeting, and if the item is pertinent to the meeting's purpose and time is available the person may make a presentation.

Decision Rules for proposed revisions to NR 445 tables. Presented by Jeff Myers.

In his presentation Jeff reviewed the decision rules followed in assembling the proposed revisions to NR 445. These are outlined in the handout: Decision Rules for Proposing NR 445 Standards in the NR 445 Revisions: Draft #2, dated June 9, 1999. In his review Jeff made the following points:

- Two categories of chemicals – carcinogens and non-carcinogens
- Carcinogens placed in two categories, known and suspected. Known carcinogens in table 3A are listed as known by both the International Agency for Research on Cancer (IARC) and the National Toxicology Program (NTP). Suspected carcinogens (NR 445 Table 3B chemicals) are those chemicals listed by both agencies as suspected carcinogens, or chemicals listed by one agency as known, while the other agency lists it as a suspected carcinogen.
- De minimis values are calculated based on a 1 in a 1,000,000 cancer risk over a lifetime.
- If de minimis values are exceeded then technology-based controls are instituted to reduce emissions, BACT or LAER.
- Additionally, non-cancer effects are considered for carcinogens. This results in the possibility that a chemical may be on multiple tables.
- For acute effects of non-carcinogens, only American Conference of Governmental Industrial Hygienists (ACGIH) adopted Threshold Limit Values (TLVs) were used.
- An exclusion of simple asphyxiants such as propane applies to any chemical whose only toxicity (the only critical effect as listed by ACGIH is as an asphyxiant) results from the displacement of oxygen at very high concentrations.
- Table 4 chemicals are moved to table 1 because all compliance dates have passed.
- Chemicals changing tables from Table 4 to Table 1 would not result in changing of existing requirements.
- Touched on each point in handout.
- Ed Wilusz asked if a chemical is listed on more than one table which table governs?
Andrew Stewart – the lowest threshold would be used to determine if a source needed to demonstrate compliance for the health based standards. If a HAP caused carcinogenic and acute health effects, the TLV based standard would become a ceiling for emissions emitted after applying control technology. Ty Stocksdales – that may be a problem. If install LAER but source is big and emissions are too big and you can't meet the TLV based. Ambient Air Concentration standard, company has to go out of business. Stewart – the TLV based limits currently in NR 445 have no variance provision for sources to exceed the TLV based standards. This issue will be discussed by the group at future meetings.

- Susan Mudd raised concern that if a company is meeting a standard on one basis that it will not have to meet standard on another basis. She thinks it should follow most protective.
- Issue raised concerning different exposure pathways (e.g., ingestion versus inhalation) for a chemical and impact on NR 445. Will be discussed at future meetings.
- Tariq Akmut raised the point that it should be restricted to air. Andrew Stewart responded that even if a chemical is listed on table, if there are no air emissions, the company does not have to do anything.
- Pat Stevens said that WMC wouldn't be able to buy into the decision rules until impacts are known. Suggests that access to spreadsheet would be helpful. Caroline – we are working on QA/QC on spreadsheet and will find way to distribute spreadsheet.
- More discussion on Decision Rules at first TAG meeting.

Decision Rules and Emission Inventory Issues. Presented by Andrew Stewart:

Andrew presented the decision rules for making the proposed revisions to Table 1 in Chapter 438 based on proposed changes to NR 445. These decision rules are outlined in his memo handout dated June 14, 1999. Annual threshold levels are calculated in pounds per year for each category. In most cases the result is a value of 50% of the proposed threshold in NR 445 with a maximum value of 6000 pounds per year. Andy also presented how the decision rules would affect the NR 438 list. His spreadsheet showed the existing threshold compared to the new threshold and the percentage change. The result was about 190 new listings, 340 some went down, 125 remained the same, and 66 increased. There are over 700 chemicals involved, including cross-listing and this is a draft document. The following questions and points were raised in discussion:

- What is rationale for increasing some of the thresholds? Andrew – using different approach tied to health effects.
- Comment - A car could easily emit more than 13 lb/yr of glycol from cooling system. Andrew – rule only applies to stationary sources.
- How was the 25 lb/yr default value chosen for chemicals with no TLV or unit risk factor? Jeff/Caroline – The figure is in the ballpark with other default values. This issue will be discussed further
- Jim Beason- What degree of certainty do you need to say whether you are above or below the threshold? Stack testing? Andrew – same methods that are currently allowed by rule still apply (e.g., stack testing, engineering judgements, MSDS, Acceptable EPA methods, etc).
- Concern raised that this is way to generate more revenue for the DNR. Andrew - not necessarily. There will be no double paying of fees. DNR is aware of this issue and will look into it more closely.
- Concern that percentage decrease is a misleading statistic in this case. Staff – will look for better way to describe change.
- Tariq – What is the impact on the air permitting program? Will permits be rewritten? Caroline—this issue, and other implementation issues, will be discussed at future meetings.
- What is best way to address questions and raise issues? Caroline – She will be central contact and issues may be addressed to her. The more issues raised earlier the better.

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By June 25 give Caroline list of proposed members for TAG, and any issues you want discussed. Next meeting will be toward end of July. Will provide copies of materials to people prior to meeting. Revised spreadsheet will be available toward late June. Walter suggests that agenda items include 25 word abstract for clarification.

Meeting closed.

Prepared by David Oughton